

REMARKS:

Claims 1, 5, 6, 8 and 10-18 are in the case and presented for consideration.

Claim 7 and 22 are canceled without prejudice to Applicants' rights to pursue the canceled subject matter in a continuing application.

Allowable Subject Matter

The Examiner indicated that claims 15 and 16 would be allowable if amended to include the features of the base claim and any intervening claim. See page 6 of the January 25, 2006 Office Action.

In response, Applicants have amended claims 15 and 16 to include the features recited in base claim 5 and intervening claim 14. Accordingly, allowance of claims 15 and 16 is respectfully requested.

Claim Rejections

The Examiner has rejected claims 1 and 18 as being anticipated by U.S. Patent 4,800,885 to Johnson and 5,348,003 to Caro, respectively.

To expedite the examination of this application, but without conceding the correctness of the Examiner's rejection, the previously presented independent claims 1 and 18 have been amended to include at least the features recited in allowable claim 15, and are therefore allowable for the same reasons given for claim 15. Accordingly, reconsideration and withdrawal of this ground of rejection is respectfully requested.

The remaining claims are rejected as being obvious over Johnson in view of U.S.

Patent 4,773,422 to Issacson, et al. or obvious over Caro in view of U.S. Patent 5,529,065 to Tsuchiya.

To expedite the examination of this application, but without conceding the correctness of the Examiner's rejection, the previously presented independent claim 5 has been amended in a manner that is believed to patentably distinguish the invention over the prior art. The references cited by the Examiner fail to teach, disclose or suggest, among other patentable features, the use of photo-detectors that are limited or tuned only to the specific range of wavelengths of light transmitted through the tissue medium, thereby improving the sensitivity of a pulsoximeter by increasing the Signal-to-Noise and/or Signal-to-Background ratio. See, e.g., page 3, lines 15-22, and page 14, lines 13-15, of the specification. This is believed to have no counterpart in the prior art.

The combination and arrangement of the wavelength specific photo-detector with the other features recited, for example, in claim 5 are substantially different from the apparatus of Johnson, Caro or any of the other references and the differences over these references is believed to be unobvious.

The dependant claims further define the invention in a manner which is believed to even better distinguish the invention over the prior art so that allowance of these claims is also respectfully requested.

Accordingly, the application and claims are believed to be in condition for allowance, and favorable action is respectfully requested. No new matter has been added.

The Examiner is respectfully invited and urged to telephone the undersigned in order to reach a conclusion to the prosecution of this case, particularly in view of the finality of the last action.

Respectfully submitted,

/Chih-Sheng Lin/
Reg. No. 56,402
Attorney for Applicants
(845) 359-7700

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NOTARO & MICHALOS P.C.
100 Dutch Hill Road, Suite 110
Orangeburg, New York 10962-2100

Customer No. 21706

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